

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

NANCY SHARLAND, *et al.*,

Plaintiffs,

v.

SINGHA ACE, *et al.*,

Defendants.

Case No. 12-cv-371-L(DHB)

**ORDER DISMISSING ACTION
WITHOUT PREJUDICE**

On February 10, 2012, Plaintiffs Nancy Sharland and Ajamu Shaw commenced this action in the Southern District of California. (Doc. 1.) Thereafter, Plaintiffs filed a First Amended Complaint (“FAC”) asserting a wrongful-death claim under 33 U.S.C. §§ 901, *et seq.*, and a claim for violations of California Civil Procedure Code § 377.61 against Defendants Mitsui O.S.K. Bulk Shipping, Inc., Pasha Stevedoring & Terminals, Inc., and Pacific Maritime Association (“PMA”). In pursuing their claims, Plaintiffs invoked federal-question jurisdiction. (FAC ¶ 2.)

On November 7, 2012, PMA moved to dismiss for lack of jurisdiction. (Doc. 31.) The Court granted PMA’s motion, and dismissed with prejudice the wrongful-death claim under 33


1 U.S.C. §§ 901, *et seq.*, and dismissed without prejudice the California Civil Procedure Code §
2 377.61 claim.

3 Plaintiffs now move to remand this matter to state court. (Doc. 55.) They explain in their
4 motion that they are moving for an order remanding this action to state court “in order to allow
5 Plaintiffs to pursue their supplemental state law claims after a previous Order of his court
6 appears to have eliminated any federal claims and a basis for Plaintiffs to maintain subject matter
7 jurisdiction.”¹ (Pls.’ Mot. 2:2–5.) Under 28 U.S.C. § 1447, the district court may remand a case
8 to state court *after removal* “[i]f at any time before final judgment it appears that the district
9 court lacks subject matter jurisdiction.” 28 U.S.C. § 1447(c). This action was not removed from
10 state court, thus the Court lacks the authority to remand it. *See id.* Plaintiffs do not provide any
11 authority that permits the district court to remand a case to state court that originated in federal
12 court. Thus, the Court construes Plaintiffs’ motion as a voluntary dismissal under Federal Rule
13 of Civil Procedure 41(a)(2).

14 In light of the foregoing, the Court **DISMISSES WITHOUT PREJUDICE** this action in
15 its entirety under Rule 41(a)(2) so that Plaintiffs may pursue their state-law claims in state court.
16 The Clerk of the Court shall close this case.

17 **IT IS SO ORDERED.**

18
19 DATED: April 4, 2013

20 
21 M. James Lorenz
United States District Court Judge

22 COPY TO:

23 HON. DAVID H. BARTICK
UNITED STATES MAGISTRATE JUDGE

24 ALL PARTIES/COUNSEL
25 _____

26 ¹ Plaintiffs’ interpretation of the Court’s previous order appears to be correct that the
27 Court lacks subject-matter jurisdiction over this case. Lack of subject-matter jurisdiction may
28 also serve as a basis for dismissing this action. *See Grupo Dataflux v. Atlas Global Grp., L.P.*,
541 U.S. 567, 593 (2004) (quoting *United States v. S. Cal. Edison Co.*, 300 F. Supp. 2d 964, 972
(E.D. Cal. 2004)).